

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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June 22, 2001

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GSBCA 15560-RELO

In the Matter of GLEN P. HAMNER

Glen P. Hamner, Boerne, TX, Claimant.

Charles N. Stockwell, Travel and Vendor Pay Branch, Defense Finance and Accounting Service, Denver, CO, appearing for Department of Defense.

**DeGRAFF**, Board Judge.

No authority exists to reimburse claimant either for the deposit he paid for a house that he did not purchase or for the money he paid to regain entry into his agency's relocation services program.

## Background

In October 1995, the Department of Defense (DoD) informed Glen P. Hamner that it was transferring him from his permanent duty station, an Air Force base in California that was due to close soon, to a new permanent duty station in Texas. The following month, Mr. Hamner paid a \$5000 deposit toward the purchase of a house in Texas. Mr. Hamner needed to sell his house in California in order to complete the purchase of the house in Texas, and he decided to sell his house by participating in DoD's relocation services program. After DoD's relocation services contractor offered to purchase Mr. Hamner's California house for \$100,000 less than he thought the house was worth, Mr. Hamner obtained an appraisal of the market value of the house. Although the relocation services contractor revised its purchase offer as a result of the appraisal, the amount of the revised offer did not provide Mr. Hamner with the funds he needed in order to complete the purchase of the house in Texas. Consequently, Mr. Hamner rejected the relocation services contractor's revised offer to purchase his California house and forfeited the \$5000 deposit he paid toward the purchase of the Texas house.

In April 1998, DoD told Mr. Hamner that in addition to participating in DoD's relocation services program, he was also eligible to participate in its homeowners assistance program. In essence, the homeowners assistance program pays an eligible employee the difference between the sales price of the employee's house and 95% of the fair market value

of the house at the time of a base closure announcement. When Mr. Hamner understood that he could participate in both the relocation services program and the homeowners assistance program, he decided to do so. Before DoD would allow Mr. Hamner to regain entry into the relocation services program, however, it required him to pay \$2340 to compensate for the expenses the relocation services contractor incurred in connection with making its earlier offers to purchase his house. In June 1998, Mr. Hamner agreed to sell his house to the relocation services contractor for slightly more than the amount of the contractor's initial purchase offer. By also participating in the homeowners assistance program, Mr. Hamner received an additional payment from DoD.

Mr. Hamner asked DoD to reimburse him for the \$5000 he forfeited by not purchasing the Texas house, the \$2340 he paid to buy back his eligibility to participate in the relocation services program, and \$700 in miscellaneous expenses. Mr. Hamner said that if DoD had provided him with clear, timely information regarding all available relocation benefits, he would not have forfeited the \$5000 deposit or paid the \$2340 to reenter the relocation services program. DoD decided that Mr. Hamner should be paid the \$700 and denied his remaining two requests for reimbursement. Mr. Hamner asked that we review DoD's decision.

### Discussion

When agencies transfer employees from one permanent duty station to another, various statutes and regulations authorize the agencies to reimburse the employees for relocation expenses. Agencies are required to reimburse employees for some relocation expenses and may, if they wish, reimburse employees for other relocation expenses. Ross K. Richardson, GSBCA 15286-RELO, 00-2 BCA ¶ 31,131. Not all relocation expenses incurred by employees are reimbursable, however. An agency may not expend public funds to reimburse an employee unless some authority exists for making the reimbursement, even if the employee incurs expenses due to incorrect or incomplete advice provided by the agency. Masood Badizadegan, GSBCA 14393-RELO, 98-2 BCA ¶ 29,789.

The \$5000 that Mr. Hamner paid as a deposit toward the purchase of the house in Texas is not reimbursable. An agency may reimburse an employee for expenses paid in connection with the purchase of one residence at a new duty station, but may not reimburse an employee for fees and costs associated with an unconsummated purchase transaction unless the actions of the Government preclude the employee from completing the transaction. 5 U.S.C. § 5724a (1994); Richard W. Sharp, GSBCA 15507-RELO (Mar. 23, 2001). Mr. Hamner has not pointed to any action of DoD that precluded him from completing the purchase of the Texas house. Our record shows that he was prevented from completing the purchase because he could not sell his California house for an amount that would provide him with the funds he needed in order to purchase the Texas house. The actions of DoD did not preclude Mr. Hamner from completing the purchase transaction, so the forfeited deposit is not a reimbursable expense.

The \$2340 that Mr. Hamner paid to reenter the relocation services program in order to sell his California house is also not reimbursable. Although an agency may reimburse an employee for expenses of the sale of a residence at the old duty station, 5 U.S.C. § 5724a, the \$2340 was not an expense of the sale of the house in California. Instead, Mr. Hamner

incurred that expense in connection with his decision not to sell the house to the relocation services contractor when it made its initial and revised purchase offers, and in connection with his later desire to utilize the contractor's services. The amount that he paid was to compensate the contractor for its expenses, and was not an expense of the sale of Mr. Hamner's house.

We can find no authority that would permit DoD to reimburse Mr. Hamner either for the \$5000 he paid for a house that he did not purchase or for the \$2340 that he paid in order to regain entry into the homeowners assistance program. The claim is denied.

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MARTHA H. DeGRAFF  
Board Judge